

**BOARD OF ENVIRONMENTAL REVIEW**  
**AGENDA ITEM**  
**EXECUTIVE SUMMARY FOR INITIATION OF RULE AMENDMENTS**

**Agenda #** II.C.1.

**Agenda Item Summary:** The Department requests that the Board initiate rulemaking to amend the rules that reference the 2002 edition of Circular DEQ 4 *Montana Standards for Subsurface Wastewater Treatment Systems* (used in subdivisions, water quality, and public water supply programs) to reflect a newly revised version (2004 edition) of DEQ 4.

**List of Affected Rules:** This request to initiate rulemaking would amend ARM 17.30.716, 17.36.912, 17.36.914, 17.36.916, 17.36.922, 17.38.101, 17.38.106.

**Affected Parties Summary:** DEQ 4 provides standards for treatment of sanitary wastewater as required under Title 76, Chapter 4, Part 1, MCA. It is used primarily in residential settings, but also is applicable for commercial development such as motels, restaurants and other businesses. The proposed amendments to the rules would affect all property owners and developers that wish to construct subsurface, sanitary wastewater treatment systems in accordance with DEQ 4. The Subdivision Review Section of the Public Water and Subdivisions Bureau receives between 1,200 and 1,600 subdivision applications each year, most of which involve use of DEQ 4 systems.

**Scope of Proposed Proceeding:** The Department requests that the Board initiate rulemaking and conduct a public hearing to consider the proposed amendments.

**Background:** The DEQ Subdivision Review Program is proposing several revisions to Circular DEQ 4, 2002 edition. These revisions necessitate amendments to DEQ rules to replace all references to the 2002 edition with references to a new 2004 edition. One of the key changes to DEQ 4 involves the current prohibition of water softener backwash into septic systems. Last year a committee was formed from subdivision task force members, DEQ personnel, and representatives of the water softener industry to review the current prohibition. Based on the information exchanged during this review, DEQ is proposing to allow discharge of backwash into septic systems from water softeners that meet certain requirements. In addition, DEQ is proposing to make several minor revisions in DEQ 4 to correct conflicts in language and errors/omissions in the 2002 edition.

**Hearing Information:** The Department recommends that the Board appoint a hearing officer and conduct a public hearing to take comment on the proposed amendments.

**Board Options:** The Board may:

1. Initiate rulemaking and issue the attached Notice of Public Hearing on Proposed Amendment;
2. Modify the Notice and initiate rulemaking; or
3. Determine that amendment of the rules is not appropriate and deny the Department's

request to initiate rulemaking.

**DEQ Recommendation:** The Department recommends that the Board initiate rulemaking and appoint a hearing officer to conduct a public hearing, as described in the proposed MAR notice attached.

**Enclosures:**

1. Draft Notice of Public Hearing on Proposed Amendment.
2. Supporting documentation:
  - a. Proposed revisions to Circular DEQ 4.
  - b. April 4, 2003 letter from water softener industry representative to DEQ.
  - c. List of information reviewed by committee in 2003 indicating no adverse impacts from water softener backwash into septic systems, and two examples of literature describing the effects of water softeners on septic systems.
  - d. List of states allowing water softener backwash into septic systems.
  - e. DEQ water softener survey letter to Montana counties and survey results.
  - f. Texas legislation to allow water softener backwash into septic systems.